



Office of the Mayor and Council  
City of College Park  
8400 Baltimore Avenue, Suite 375  
College Park, Maryland 20740  
Telephone: (240) 487-3501

**NOTICE OF FINAL DECISION  
of the  
MAYOR AND COUNCIL  
of the  
CITY OF COLLEGE PARK**

RE: Case No. CPV-2021-10 Name: Paulela & Marie Guerda-Frederique

Address: 10114 51<sup>st</sup> Avenue, College Park, MD 20740

Enclosed herewith is a copy of the Resolution setting forth the action taken by the Mayor and Council of the City of College Park in this case on the following date:

**November 9, 2021.**

**CERTIFICATE OF SERVICE**

This is to certify that on **November 15, 2021** the attached Resolution was mailed, postage prepaid, to all persons of record.

**NOTICE**

Any person of record may appeal the Mayor and Council decision within thirty (30) days to the Circuit Court of Prince George's County, 14735 Main Street, Upper Marlboro, MD 20772. Contact the Circuit Court for information on the appeal process at (301) 952-3655.

Janeen S. Miller, CMC  
City Clerk

Copies to: Advisory Planning Commission  
City Attorney  
Applicant  
Parties of Record

PG Co. DER, Permits & Review Section  
M-NCPPC, Development Review Division  
City Public Services Department

**RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK  
ADOPTING THE RECOMMENDATION OF THE ADVISORY PLANNING  
COMMISSION REGARDING VARIANCE APPLICATION NUMBER CPV-2021-10,  
10114 51<sup>ST</sup> AVENUE, COLLEGE PARK, MARYLAND, RECOMMENDING  
APPROVAL OF A VARIANCE FROM SECTION 27-120.01 (C) OF THE PRINCE  
GEORGE'S COUNTY ZONING ORDINANCE, TO REPAIR AN EXISTING  
DRIVEWAY**

- WHEREAS,** the City of College Park ("City") has, pursuant to §190-1 *et seq.* of the Code of the City of College Park ("City Code"), and in accordance with Sec. 27-924 of the Prince George's County Zoning Ordinance ("Zoning Ordinance"), enacted procedural regulations governing any or all of the following: departures from design and landscaping standards, parking and loading standards, sign design standards, and variances for lot coverage, setback, and similar requirements for land within the corporate boundaries of the City, alternative compliance from landscaping requirements, certification, revocation, and revision of nonconforming uses, and minor changes to approved special exceptions; and
- WHEREAS,** the City is authorized by City Code § 190-1 *et seq.* to grant an application for a variance where, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of the specific parcel of property, the strict application of the Zoning Ordinance would result in peculiar and unusual practical difficulties or an exceptional or undue hardship upon the owner of the property, and a variance can be granted without substantial impairment of the intent, purpose and integrity of the General Plan or Master Plan; and
- WHEREAS,** the Advisory Planning Commission ("APC") is authorized by §190-3 of the City Code to hear requests for variances from the terms of the Zoning Ordinance with respect to lot size, setback, and similar requirements including variances from Sec. 27-120.01(c) of the Zoning Ordinance, and to make recommendations to the City Council in connection therewith; and
- WHEREAS,** Section 27-120.01(c) of the Zoning Ordinance provides that no parking space, parking area, or parking structure other than a driveway no wider than its associated garage, carport, or other parking structure may be built in the front yard of a dwelling, except a townhouse or multifamily dwelling, in the area between the front street line and the sides of the dwelling; and
- WHEREAS,** on September 7, 2021, Paulela Frederique and Marie Guerda-Frederique ("Applicants"), submitted an application for a variance of 104 square feet (4 feet x 26 feet) to allow parking in front of the house for a property located at 10114 51<sup>st</sup> Avenue, College Park ("Property"); and
- WHEREAS,** on October 7, 2021, the APC conducted a hearing on the merits of the variance at which the APC heard testimony and accepted evidence including the staff report, exhibits, and the staff presentation with respect to whether the subject application meets the standards for granting a variance set forth in §190-4 of the City Code; and

**WHEREAS,** based upon the evidence and testimony presented, the APC voted 4-0-0 to recommend the approval of the variance; and

**WHEREAS,** the Mayor and Council are authorized by §190-6 of the City Code to accept, deny or modify the recommendation of the APC or return the variance application to the Commission to take further testimony or reconsider its recommendation with respect to the variance request; and

**WHEREAS,** the Mayor and Council have reviewed the recommendation of the APC as to the application for a variance and in particular have reviewed the APC's findings of fact and conclusions of law; and

**WHEREAS,** no exceptions have been filed.

**NOW THEREFORE,** the Mayor and Council are in agreement with and hereby adopt the findings of fact and conclusions of law of the APC with regard to CPV-2021-10 to approve a variance to permit a parking area encroachment in the front yard.

### **Section 1 Findings of Fact**

- 1.1 The property and immediate neighborhood are zoned R-55, single-family residential.
- 1.2 The property is located on a corner and is a quadrangle with a front width of 59.91 feet and a rear width of 65 feet. The sides are 92.26-feet and 120-feet with a total area of 8,816 square feet.
- 1.3 The property is improved with a 1.5-story house, a fence, an attached garage, and a 14-foot-wide driveway.
- 1.4 Of the 22 properties on this block or near the subject property, all have driveways and 18 of these driveways or 81.81% encroach in front of the house.
- 1.5 The house was built in 1954. From PGAtlas aerials, it appears the driveway was widened between 1998 and 2000. There is no building permit in the records for this 4-foot widening/encroachment.
- 1.6 Because of driveway deterioration, the property owners began demolishing the concrete driveway prior to obtaining County and City building permits. A City violation notice was issued on 7-15-2021.
- 1.7 The driveway encroachment ordinance was not adopted until 2002.

### **Section 2 Conclusions of Law**

- 2.1 The property has an extraordinary situation or condition in that the driveway was widened without a permit over 20 years ago before the width of the driveway was limited in the front yard. If the Applicant had applied for a permit at that time, it would have been issued. The Applicant would like to correct this issue by obtaining a variance to allow him to repair the driveway he has used for over 20 years.

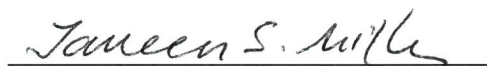


- 2.2 The strict application of the Zoning Ordinance will result in a practical difficulty by not allowing the repair of a driveway that has existed in its current configuration for over 20 years.
- 2.3 Granting the driveway variance will not substantially impair the intent or purpose of the applicable County General Plan or County Master Plan since most of the properties with driveways in the area have been widened and many encroach in front of the house.

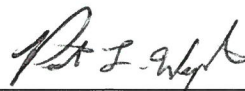
**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the City of College Park, to approve CPV-2021-10 for a variance to permit a parking area encroachment in the front yard of 104 square feet (4 feet x 26 feet).

**ADOPTED**, by the Mayor and Council of the City of College Park at a regular meeting on the 9<sup>th</sup> day of November, 2021.

CITY OF COLLEGE PARK

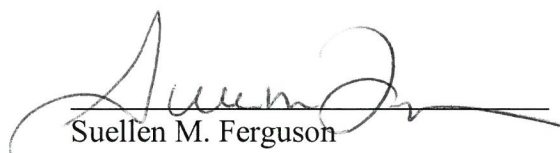


Janeen S. Miller, CMC  
City Clerk



Patrick L. Wojahn, Mayor

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY



Suellen M. Ferguson  
City Attorney